

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JOSE HENRY GONZALEZ, Individually and on :  
Behalf of All Other Persons Similarly Situated, :

Plaintiff, :

v. :

AUTO-CHLOR SYSTEM OF NEW YORK CITY, :  
INC., and ABC CORPORATIONS # 1-10, and :  
JOHN DOES #1-10, Jointly and Severally, :

Defendants. :  
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ECF CASE

No.: 1:12-CV-3465 (BMC)

DECLARATION OF RICHARD KEATING IN SUPPORT OF PLAINTIFF'S MOTION FOR  
CONDITIONAL CLASS CERTIFICATION AND COURT-AUTHORIZED NOTICE

Dated: New York, New York  
November 16, 2012

SUBMITTED BY:

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Putative Class Members*

DECLARATION OF RICHARD KEATING

I, Richard Keating, upon personal knowledge and under penalty of perjury, pursuant to 29 U.S.C. § 1746, state and declare that the following are true and correct:

1. I started working for Defendant Auto-Chlor System of New York City, Inc. (“Auto-Chlor”) in or about 2001 as a Technician and continued to do so until approximately October 7, 2011. I worked in Auto-Chlor’s Queen’s branch.

2. Auto-Chlor provides dishwashing machine installation and repair services for customers throughout New York, New York, Brooklyn, New York, Bronx, New York and Long Island, New York.

3. As a Technician working for Auto-Chlor, my main duties involved installing and repairing dishwashing machines.

4. From personally speaking with them, I know that other employees with the “Technician” title who worked for Auto-Chlor performed similar duties as me. Henry Gonzalez and Abraham (I cannot recall his last name) are two of these individuals. During these discussions, we would discuss the details of some jobs.

5. Since I started working for Auto-Chlor as a Technician, I have been paid the same hourly rate: \$17.00 per hour. I never got a raise.

6. From personally speaking with them, I know that other employees with the “Technician” title who worked for Auto-Chlor were paid an hourly rate, just like me. Henry Gonzalez and Abraham are some of these individuals.

7. While working as a Technician for Auto-Chlor, during my regular work schedule, I worked nine-hour shifts, five days per week (Monday – Friday), or forty-five (45) hours per week. For some weeks, my shift was from 8:00 a.m. to 5:00 p.m. and for others it was from 10:00 a.m. to 7 p.m. I regularly did not take a lunch break.

8. In addition to my regular schedule, I also had to be on-call once a week for each month. Meaning, when I was not regularly scheduled to work, I would receive a call from Auto-Chlor telling me about an installation or repair job, and I would then drive from my home or wherever I was to complete the job.

9. When I was on-call, I had to be available twenty-four (24) days per day. While on-call, Auto-Chlor's phone system would forward me a customer's voicemail that would describe an installation or repair job and, upon receiving this call, I would drive from my house or wherever I was to the job and perform the necessary repairs or installation. After doing so, unless I had another on-call job to go to, I would drive back to my house or wherever I was before receiving the call. If I had another on-call job, I would then drive to that job, and after completing that job or any remaining on-call jobs, I would then drive back home.

10. I would use written time sheets to track my hours worked while I was on-call. These sheets are sometimes called the "on call book" which Auto-Chlor gave me. Using these sheets, I would sign-in after I received the voicemail informing me of the job, but before I drove to the job. While out working on an on-call job, I would sometimes receive another on-call job. I would sign-out after I completed the last on-call job and returned home or wherever I was before I received the calls. For example, if I only had one on-call job in a day, I would sign-in when I left my house and sign out when I returned to my house. If I had two or more on-call jobs, I would sign in for the first job when I left my house and I would sign out for that first job after I completed it, but before I drove to the next job. I would then sign in for the next job before I drove to it from the first job, and I would sign out after I completed the job and before I headed to the next job. I repeated this practice if I had two or more on-call jobs. At the end of the last on-call job, I would sign out for that last job when I got home. At the end of each day being on-call, I would give my time sheets or "on call book" to my manager.

11. Upon submitting my on-call time sheets, my manager regularly reduced my total number of on-call hours based on how long he thought each job should take and to drive to each job.

12. I know that Auto-Chlor reduced my on-call hours by comparing the total number of hours that were listed on my time sheets with the total number of on-call hours for which I was paid. Also, my manager sometimes questioned me about how long each job took and how long it took to drive from job to job, and I wasn't paid for all of those hours he questioned me about.

13. I was regularly not paid for two or more hours of on-call time per week.

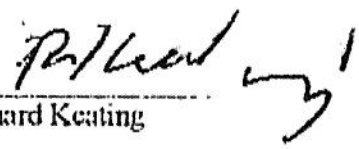
14. As I normally worked more than forty (40) hours per workweek, I should have received overtime premium pay for the two or more hours that I worked for which I was not compensated.

15. From speaking with them, I know that other Auto-Chlor Technicians worked a similar amount of hours per week as me and were similarly not compensated for all of the hours that they worked, as they were also not paid for all of their on-call work. Henry Gonzalez and Abraham (I can't recall his last name) are two of these individuals. It was in these conversations we talked about how many hours we worked and how many hours we were paid. Abraham would complain to be about not getting paid for all of his on-call hours.

16. Auto-Chlor did not pay me and, upon information and belief, other Technicians time and one half (1 ½) our regular rate for every hour that we worked in excess of forty (40) hours per workweek.



Dated: November 13, 2012

  
Richard Keating